PATENT
Customer No. 22,852
Attorney Docket No. 02887.0250

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	
Shingo Tanaka et al.	)	
Application No. 10/671,804	)	Group Art Unit: 2446
Filed: September 29, 2003	)	Examiner: Farhad Ali
For: MASTER COMMUNICATION DEVICE, SLAVE COMMUNICATION DEVICE, COMMUNICATION CONTROL APPARATUS, COMMUNICATION SYSTEM, AND COMMUNICATION CONTROL PROGRAM	)	Confirmation No. 9918

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Commissioner for Patents
P.O. Box 1450
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Sir:

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Applicants request a pre-appeal brief review of the rejections in the final Office Action mailed April 23, 2010. This Request is being filed concurrently with a Notice of Appeal.

A pre-appeal brief review of the rejection set forth in the final Office Action is proper because: (1) the application has been at least twice rejected; (2) Applicants have concurrently filed a Notice of Appeal (prior to filing an Appeal Brief); and (3) this Pre-Appeal Brief Request for Review is five (5) or less pages in length and sets forth legal or factual deficiencies in the rejections. See Official Gazette Notice, July 12, 2005.

REMARKS

In the final Office Action[1], the Examiner maintained the rejection of independent claim 1 made in the non-final Office Action mailed August 20, 2009. Claims 1-8 and 11-20 remain pending.

Applicants respectfully traverse the rejection of claims 1-8 and 11-20 under 35 U.S.C. § 103(a) as being unpatentable over Brown et al. (U.S. Patent No. 6,366,622) ("Brown") in view of Fujioka (U.S. Patent No. 6,907,227) ("Fujioka"), and further in view of Lee et al. (U.S. Patent Publication No. 2002/0090968) ("Lee"). No *prima facie* case of obviousness has been established for these claims for at least the following reasons.

The Examiner has not properly determined the scope and content of the prior art, and has not properly ascertained the differences between the prior art and the claimed combinations. For example, Brown does not teach or suggest "[a] master communication device capable of simultaneously communicating with slave communication devices within a first limited number determined in advance, comprising: ... a connected number judgment unit configured to judge whether or not the number of said slave communication devices connected currently reaches a second limited number less than said first limited number; [and] a release selection unit configured to select at least one of said slave communication devices to be released, when determined to have reached said second limited number," as recited in claim 1 (emphasis added).

[1] The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Office Action.

The Examiner admitted that Brown does not disclose the above element of claim 1 (Office Action, p. 3). The Examiner then alleged that Fujiok discloses the claimed "a connected number judgment unit configured to judge whether or not the number of said slave communication devices connected currently reaches a second limited number; [and] a release selection unit configured to select at least one of said slave communication devices to be released, when determined to have reached said second limited number" (Office Action, p. 3), and that Lee discloses the claimed "the second limited number is less than said first limited number" (Office Action, p. 4). However, these allegations are not correct.

Fujioka fails to cure the deficiencies of Brown. Fujioka discloses that "[s]lave terminals and a master terminal are wirelessly connected according to the Bluetooth protocol. When a number of the slave terminals exceeds a predetermined number of the slave terminals for the wireless connection, the wireless connections are controlled by a predetermined set of rules. Active slave terminals are switched into inactive slave terminals according to the predetermined rules so as to efficiently use the resources in the system" (Abstract, emphasis added). However, neither Brown, nor Fujioka, nor any combination thereof, teaches use of "a second limited number less than a first limited number," and selection of "at least one of said slave communication devices to be released, when [the number of slave communication devices is] determined to have reached said second limited number," as recited in claim 1.

Lee fails to cure the deficiencies of Brown and Fujioka. The Examiner alleged that "Lee teaches in paragraph [0054] '[t]he memory 32 stores priorities of the slave devices that are currently linked to the Piconet. Further, the memory 32 stores a

maximum number of slave devices of the high priority and medium priority, respectively (hereinafter called "high priority maximum number" and "medium priority maximum number", respectively)' in order to 'prevent an excessive number of slave devices from having high and medium priorities in the Piconet'" (Office Action, p. 4). However, whether this allegation is correct or not, neither Brown, nor Fujioka, nor Lee, nor any combination thereof, teaches use of "a second limited number less than a first limited number," and selection of "at least one of said slave communication devices to be released, when [the number of slave communication devices is] determined to have reached said second limited number," as recited in claim 1.

In view of the shortcomings of the prior art and the errors in analysis of the prior art set forth in the Office Action, the Office Action has neither properly determined the scope and content of the prior art nor properly ascertained the differences between the claimed invention and the prior art. Moreover, there is no motivation for one of ordinary skill in the art to modify the references to achieve the claimed combinations. Thus, the Office Action has failed to clearly articulate a reason why the prior art would have rendered the claimed invention obvious to one of ordinary skill in the art. Accordingly, no *prima facie* case of obviousness has been established. The 35 U.S.C. § 103(a) rejection of independent claim 1 and, hence, dependent claims 2-8 is therefore improper and should be withdrawn.

Independent claims 11, 13, and 17, although different in scope from claim 1 and from each other, recite elements similar to claim 1 and are thus allowable for at least the reasons discussed above with respect to claim 1. Therefore, the 35 U.S.C. § 103(a)

rejection of claims 11, 13, and 17 and, hence, dependent claims 12, 14-16, and 18-20 is also improper and should be withdrawn.

CONCLUSION

In view of the foregoing, Applicants respectfully request that the rejections be withdrawn and the claims allowed.

Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account 06-0916.

Respectfully submitted,

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Dated: July 22, 2010

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